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SB 743

RELATING TO ENVIRONMENTAL IMPACT STATEMENTS

Senate Committee on
Agriculture and Environmental Protection

Public Hearing - February 25, 1992
1:00 pm, Room 305

By

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Jacquelin Miller, Environmental Center
Peter Rappa, Sea Grant

SB 743 would require that all EIS's prepared pursuant to HRS 343-5(c) (Applicant Action EIS's) be prepared by a consultant. The consultant in turn would be selected by a majority vote of the agency, the applicant (if the applicant is different from the agency), and the environmental council. The bill further defines a "consultant" as a "qualified person who is retained to provide professional assistance in the preparation of an EIS."

Our statement on this bill does not represent an institutional position of the University of Hawaii.

The intent of this bill is not clear. If it is to encourage the preparation of more objective EIS's, ie. less "self serving documents" by use of consultants selected by several parties we note several serious flaws. First, our recently completed study of the EIS system pointed out that for the two year period of 1989 and 1990 there were 28 applicant action EIS's prepared. Of these, only 1 EIS was prepared by the applicant, the remaining 27 were prepared by consultants. Second, since the applicant is responsible for the cost of the preparation of the EIS, regardless of how the consultant is selected, the contract will be between the applicant and consultant. It seems unlikely that the proposed team selection of the consultant will have any effect on the quality of the document produced beyond the existing system. Since the Environmental Council meets only monthly, there would certainly be additional delays to projects caused by the need for council input to the consultant selection process. Furthermore, the Council does not necessarily have the background necessary

to select a consultant with the specific expertise needed for the particular project under consideration. We don't see any advantage to the proposed amendment with regard to improvements to the quality of the EIS document.

The proposed amendment would apply only to applicant actions (HRS 343-5(c)). Therefore, the reference on page 1 line 12 that states "if the applicant is different from the agency..." seems incorrect. The amendment would not apply if the "applicant" were an "agency". Furthermore, it's not clear why the proposed amendments should not apply to agencies as well.

The definition of "Consultant" is extremely nebulous. "Qualified person" could mean anything. A person could be an "expert" in one field and yet be uninformed of the multi- or interdisciplinary requirements of what constitutes an acceptable EIS for a project outside his/her particular area of expertise. If the project involves a water development plan, the consultant should have background in hydrology. If it is a resort development, the requirements for the consultant could be totally different, and so on.

Having a neutral consultant, prepare the EIS may improve the quality of the contents of the document if they a) are not paid directly by the proposer, b) are well qualified to do the work, c) are disqualified from doing other work on the project and d) perceive that they will not be placed at a future employment disadvantage for disclosing negative impacts. However, we find it difficult that a test for competency could easily be devised or that a private developer will want to pay for services they have little control over.

In summary, we see no benefit to inserting a statutory requirement for a procedure for which no measureable benefit can be seen, and for which the major effect will be a delay in the preparation of EIS's.